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Letter dated 15 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 7 March 2002 (S/2002/264).

The Counter-Terrorism Committee has received the attached supplementary report from Gabon, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for this letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: French]

Note verbale dated 31 March 2003 from the Permanent Mission of Gabon to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Gabon to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and has the honour to transmit to it the enclosed letter from the Minister of State and Minister for Foreign Affairs, Cooperation and Francophonie regarding the supplementary report of Gabon on the implementation of resolution 1373 (2001) (see enclosure).

Because a faxed document is difficult to read, the same document will subsequently be transmitted in proper form. The Permanent Mission of Gabon would accordingly ask the Committee not to publish the supplementary report before receiving the latter version.

Enclosure

Letter dated 21 March 2003 from the Minister of State and Minister for Foreign Affairs, Cooperation and Francophonie of Gabon addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to acknowledge receipt of your letter of 7 March 2002 requesting the Government of Gabon to clarify a dozen or so specific points relating to counter-terrorism.

Your questionnaire was transmitted for consideration by the various Government departments involved in combating terrorism at the national level, namely:

- The Ministry for Foreign Affairs, Cooperation and Francophonie;
- The Ministry of Justice;
- The Ministry of Economic and Financial Affairs;
- The Ministry of the Interior.

I am pleased to be able to respond in this letter to the Committee's questions.

I should observe at the outset that the law should be viewed as reflecting the concerns of a society at a particular point in time.

Since Gabon has not experienced the kind of terrorism seen in recent times, its legislature has not provided for specific measures against it in the positive law of the country.

Gabon fully subscribes to the view that combating terrorism is a matter of universal conscience and is therefore considering acceding to all the relevant international conventions and adapting its domestic law to the new challenges arising from terrorism.

Notwithstanding Gabon's clearly expressed political will to prevent and suppress all forms of terrorism, the introduction of counter-terrorism measures is a slow and costly process.

Having made these preliminary remarks, we should note that offences very similar to terrorism are punishable under Gabon's Criminal Code. We will explain the relevant provisions in our answers to each of the questions you put to us.

Subparagraphs 1 (a) and 1 (b)

Although there are no specific provisions aimed at preventing and suppressing terrorism, Gabonese criminal judges dealing with terrorist acts can invoke articles 61 to 74 of the Criminal Code, which deal with offences against the State's internal and external security.

As an indication of the uncompromising stand taken by the Gabonese legislature in this regard, it will suffice to note that article 61, paragraph 10, of the Criminal Code imposes the death penalty on those convicted of such offences.

Subparagraph 1 (c)

Once again, Gabon's positive law currently contains no specific provisions for the freezing of funds or other economic resources of terrorist groups in response to an urgent request from another country or appropriate international body.

However, cooperation in these matters clearly depends greatly on the political will of States, and I wish to assure you that Gabon fully intends to cooperate with the international community in combating terrorism.

In matters concerning suspicious financial transactions, banking establishments are bound by the instructions of the Ministry of Economic and Financial Affairs.

The monitoring of financial flows by the Economic Intervention Service conforms to rule 0200/CEMAC/UMAC/CM harmonizing the regulation of currency exchange in the member States of the Central African Economic and Monetary Community (CEMAC).

This rule will shortly be backed up by two bills currently being drafted:

- The bill on money laundering;
- The bill on combating the financing of terrorism.

Subparagraph 1 (d)

In this connection we may refer to articles 193 and 194 of the Criminal Code, which deal with conspiracy. Article 194 states: "Any person who participates in a conspiracy or agreement to prepare or commit crimes against persons or property shall be liable to the death penalty."

Paragraph 2

Gabon has already signed the twelve United Nations conventions on terrorism and has ratified four of them:

- The Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963), which entered into force on 4 December 1969;
- The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 1971) and the 1984 protocol thereto;
- The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (New York, 1973), which entered into force on 20 February 1977;
- The Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 16 December 1970), which entered into force on 14 October 1971.

Gabon has also started the process of ratifying eight other multilateral counter-terrorism agreements.

With regard to mutual judicial assistance in the prosecution of terrorists, it should be noted that Gabon has ratified the Statute of the International Criminal Court and is therefore bound by the complementarity and cooperation mechanisms of the Court.

Subparagraph 2 (e)

The Ministry of Justice has not yet begun to update the legislation which would allow Gabon's courts to suppress terrorism. This is unlikely to happen at the moment, because the process of ratifying all the counter-terrorism conventions is not complete.

Once that ratification process has reached its end, Gabon would like to receive international legal assistance with a view to adapting its domestic legislation, given the specificity of the issues involved in combating terrorism.

Subparagraphs 3 (b) and 3 (c)

Gabon cooperates actively in the provision of information through Interpol, of which it is a member. It is also open to any other form of cooperation with States requesting it, even outside the framework of the international agreements on terrorism.

Furthermore, Gabon has signed the Algiers Convention on the Prevention and Combating of Terrorism, concluded under the auspices of the African Union. The Convention is a collective, Africa-wide effort to halt terrorism.

Subparagraphs 3 (d) and 3 (e)

Gabon has undertaken to ratify the twelve universal instruments aimed at preventing and suppressing terrorism, including the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague on 16 December 1970.

The eight agreements awaiting ratification have been approved by the country's Council of Ministers and have been endorsed by both the Council of State and the Constitutional Court.

The texts of the conventions must now be examined by the two houses of Parliament and the instruments of ratification will then be submitted to the President for signing.

With regard to extradition under bilateral treaties concluded by Gabon for the crimes defined in the relevant international conventions, there are only two such treaties: with France, and with Morocco.

These two bilateral treaties are supplemented by the Tananarive Convention, which covers all the French-speaking countries of West and Central Africa, including Madagascar.

None of these agreements specifically cover the perpetrators of terrorist acts, but the reference to "perpetrators of various offences" could easily be seen as making terrorists extraditable under the bilateral treaties described above.

Subparagraphs 3 (f) and 3 (g)

To ensure that asylum seekers are not connected to any terrorist acts, the Government of Gabon has set up a National Refugee Commission on which the departments dealing with counter-insurgency, the special police services and the Ministry of Foreign Affairs are represented.

The membership of the Subcommittee on Eligibility for Refugee Status set up by Decree No. 000646/PR/MAECF of 19 July 2000 is similar to that of the National Refugee Commission. The operation of the Subcommittee is governed by domestic and international law, including:

- The United Nations Convention relating to the Status of Refugees of 28 July 1951;
- The Protocol of 31 January 1967 to the 28 July 1951 Convention on the Status of Refugees;
- The Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa of 10 September 1969;
- The agreement between Gabon and the Office of the United Nations High Commissioner for Refugees (UNHCR) of 16 February 1978;
- Act No. 005/98 of 5 March 1998 on the status of refugees in the Gabonese Republic.

Paragraph 4

Gabon was quick to submit its report to the United Nations Secretariat pursuant to paragraph 6 of resolution 1373 (2001), having done so on 19 December 2001. Its diligence demonstrates the commitment and will of the highest authorities in Gabon to lend their cooperation and every assistance in the fight against terrorism.

The Gabonese authorities fully support and will comply with the obligations set forth in paragraph 4 of Security Council resolution 1456 of 20 January 2003 regarding cooperation and assistance for the Counter-Terrorism Committee.

Other matters

The Government departments involved in combating terrorism in Gabon include the police, the immigration, customs and taxation services, and the financial supervision system, which work in their individual areas of responsibility. Information from all those sources is relayed where necessary to the Office of the President, which includes a National Security Council, or to the Ministry of Foreign Affairs for coordination and transmission to international bodies where appropriate.

(*Signed*) Jean **Ping**
Minister of State and Minister for Foreign
Affairs, Cooperation and Francophonie